

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION
IN ADMIRALTY

In the matter of the Complaint of)	Civil Action No.: 2:18-cv-02396-DCN
MORAN ENVIRONMENTAL)	
RECOVERY, LLC, as the owner of the)	
vessel "Miss June" and her engines,)	PETITION TO APPROVE
tackle, appurtenances, etc.)	SETTLEMENT FOR
)	SURVIVAL AND WRONGFUL DEATH
)	
For exoneration from, or limitation of,)	
<u>liability.</u>)	

The duly appointed Personal Representative of the Estate of David Wayne Rafferty, Tiffany Provence, Esq., petitions the Court pursuant to S. C. Code Ann. §15-51-42 for approval of the settlement of a wrongful death and survival action, and would show unto this Honorable Court as follows:

1. The Personal Representative has reached a proposed settlement with Plaintiff in Limitation Moran Environmental Recovery, LLC ("Moran") for wrongful death and survival as set forth in this Petition.

2. David Wayne Rafferty (the "Decedent") was a Jones Act seaman employed by Moran and died as a result of an allision by the M/V MISS JUNE with a contraction dike on or about July 6, 2018, in the Cooper River, Charleston Harbor, South Carolina.

3. Moran denies any liability with respect to the death of the Decedent but has negotiated the settlement herein as a reasonable compromise of disputed claims.

4. Moran is insured for claims such as that presented by the Decedent in the amount of \$1,000,000.00, as provided in the policy of Starr Indemnity & Liability Company, with excess insurance in the amount of \$15,000,000.00, as provided in the policy of Nautilus Insurance

Company and Berkley Environmental (a Berkley Company), and excess insurance in the amount of \$5,000,000, as provided in the policy of Aspen Specialty Insurance Company.

5. The terms of the proposed settlement include the payment of \$1,350,000.00 to the Estate of David Wayne Rafferty for the survival and wrongful death actions.

6. The sole statutory beneficiary of the Decedent under the wrongful death statute is Dillon M. Rafferty.

7. The Decedent had no Will, and the sole heir at law of the Decedent was also Dillon M. Rafferty.

8. All creditors of the Estate have been paid in full prior to the filing of the within Petition.

9. The Personal Representative set forth below has retained counsel, Law Offices of Gedney M. Howe, III, PA, and Barrow Law Firm, LLC, and they shall charge the sum of \$540,000 for attorney's fees and \$22,327.42 for costs as set forth on **Exhibit A** attached hereto.

10. The Petitioner believes the settlement is in the best interest of the Estate.

WHEREFORE, the duly authorized Personal Representative of the Estate of David Wayne Rafferty petitions this Court as follows:

1. to approve the settlement with Moran in the amount of \$1,350,000.00 payable to the Estate of David Wayne Rafferty for the survival and wrongful death actions, as set forth in this Petition;

2. to relieve and discharge Moran from further liability and all obligations or legal duties to see to the appropriate or proper distribution of the settlement proceeds in accordance with S.C. Code Ann. §15-51-42(E);

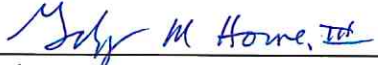
3. for an Order providing that, upon payment to the Personal Representative, the obligations of Moran and all those who could be responsible for the actions of Moran are fully and completely released and finally and forever discharged from any further responsibility in connection with the death of David Wayne Rafferty;

4. for an order that attorneys' fees and disbursements as set forth in **Exhibit A** be approved and that the settlement proceeds be distributed as set forth on **Exhibit A**; and

5. for such other and further relief as this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

LAW OFFICES OF GEDNEY M. HOWE, III, PA

By: 
Gedney M. Howe, III, Esquire (Fed ID #1971)
P. O. Box 1034
Charleston, SC 29402
Phone: (843) 722-8048
Fax: (843) 722-2140
Email: ghowe@gedneyhowe.com

BARROW LAW FIRM, LLC
A. Elliott Barrow, Jr. (Fed ID #1222)
1051 Chuck Dawley Blvd.
Mt. Pleasant, SC 29464
Phone: (843) 352-1440
Fax: (843) 352-1441
Email: blf@barrowlawfirm.com

***ATTORNEYS FOR CLAIMANT
TIFFANY PROVENCE, ESQ., IN HER
CAPACITY AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF
DAVID WAYNE RAFFERTY***

Charleston, South Carolina

March 30, 2020

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

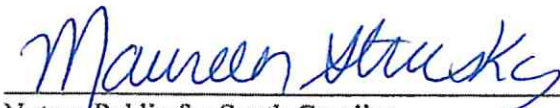
VERIFICATION

PERSONALLY APPEARED BEFORE ME, Tiffany Provence, in her capacity as Personal Representative of the Estate of David Wayne Rafferty, who being duly sworn, deposes and says that she is the Petitioner in the foregoing action; that she has read the Petition to Approve Settlement for Survival and Wrongful Death, and the same is true and correct of her own knowledge, save and except those matters and things therein alleged on information and belief; and, as to those matters and things, she believes the same to be true and correct.



TIFFANY PROVENCE, ESQ., PERSONAL
REPRESENTATIVE OF THE ESTATE OF DAVID
WAYNE RAFFERTY

SWORN TO and subscribed before me this
30 day of March, 2020.



Notary Public for South Carolina

My Commission Expires: Feb. 25, 2026



SETTLEMENT STATEMENT

In the matter of the Complaint of Moran Environmental Recovery, LLC as the owner of the vessel "Miss June" and her engines, tackle, appurtenances, etc.

For exoneration from, or limitation of, liability

Civil Action Number: 2:18-cv-02396-DCN

Total Amount of Settlement:	\$1,350,000.00
Less Attorneys' fee (40%):	- <u>\$ 540,000.00</u>
Barrow Law Firm	\$270,000.00
Gedney M. Howe, III, PA	\$270,000.00
Balance:	\$810,000.00

Less Office Expenses to be Reimbursed:

Gedney M. Howe, III, PA:

1. Fisher Maritime Consulting Group	\$6,000.00
2. Fisher Maritime Consulting Group	\$3,932.49
3. Fisher Maritime Consulting Group	\$3,447.50
4. Fisher Maritime Consulting Group	\$3,214.40
5. Veritext	\$466.80
6. E. Paul Gibson, P.C.	<u>\$1,983.33</u>
	\$19,044.52

Barrow Law Firm:

1. S.C. District Court	\$150.00
2. Personal Representative	\$285.00
3. Expert's fees	\$1,095.00
4. Investigation fee	\$20.00
5. Medical records	\$35.20
6. Expert's fees	\$575.00
7. Medical records	\$285.50
8. Expert's fees	\$200.00
9. Deposition expense	\$539.45
10. Printer costs	\$57.25
11. Scan costs	<u>\$40.50</u>
	\$3,282.90

Total Office Expenses to be Reimbursed: - \$22,327.42

Balance: \$787,672.58

Less Fees and Expenses for Tiffany Provence, Esquire: - \$4,000.00

Balance Due to Client: \$783,672.58

Exhibit "A"

I hereby acknowledge that my attorney has provided me with a copy of my file. I hereby authorize the destruction of the file and acknowledge and confirm that there are no pending or threatened legal proceedings known to me or my attorney.

All known medical bills, liens and expenses have been paid. Any other medical bills, liens and/or expenses are the responsibility of the client. I, Tiffany Provence, Esquire, as Personal Representative of the Estate of David W. Rafferty, instruct disbursement as set forth above.

Approved and received the sum of \$783,672.58 this ____ day of _____, 2020.

Tiffany Provence, Esquire, Personal
Representative of the Estate of David Wayne
Rafferty

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION
IN ADMIRALTY

In the matter of the Complaint of
MORAN ENVIRONMENTAL
RECOVERY, LLC, as the owner of the
vessel "Miss June" and her engines,
tackle, appurtenances, etc.

For exoneration from, or limitation of,
liability.

)
)
)
)
)
)
)
)
)
)
)

Civil Action No.: 2:18-cv-02396-DCN

CERTIFICATION OF LEGAL COUNSEL

I, Robert Wyndham, attorney for Claimant Tiffany Provence as Personal Representative of the Estate of David Wayne Rafferty, certify as follows:

1. I have read the Petition to Approve Settlement for Survival and Wrongful Death.
2. I am of the opinion that the settlement is fair and reasonable and in the best interest of the wrongful death statutory beneficiaries and the Estate of David Wayne Rafferty.

LAW OFFICES OF GEDNEY M. HOWE, III, PA

By:



Robert J. Wyndham, Esquire (Fed ID #5275)
8 Chalmers Street
P. O. Box 1034
Charleston, SC 29402
Phone: (843) 722-8048
Fax: (843) 722-2140
Email: rwyndham@gedneyhowe.com

Charleston, South Carolina

March 30, 2020